

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ELVIN BERLE WESLEY,)
Plaintiff,)
)
v.) No. 3:08-CV-243
) (Phillips/Guyton)
MICHAEL J. ASTRUE,)
COMMISSIONER OF SOCIAL SECURITY,)
Defendant.)

ORDER

This Social Security appeal is before the court on the report and recommendation filed by United States Magistrate Judge H. Bruce Guyton [Doc. 21]. There have been no timely objections to the report and recommendation, and enough time has passed since the filing of the report and recommendation to treat any objections as having been waived. See 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

After a careful review of this matter, the court is in complete agreement with the magistrate judge's conclusion that this matter should be remanded to the Commissioner for consideration of evidence pertaining to plaintiff's "new onset endstage renal disease." Accordingly, the court **ACCEPTS IN WHOLE** the report and recommendation under 28 U.S.C. § 636(b)(1) and Fed.R.Civ.P. 72(b). It is **ORDERED**, for the reasons stated in the report and recommendation, which the court adopts and

incorporates into its ruling, that the plaintiff's motion for summary judgment [Doc. 11] **IS GRANTED IN PART AND DENIED IN PART**, plaintiff's claim for disability benefits is **DENIED AT THIS TIME**, and plaintiff's request for remand is **GRANTED**; the defendant Commissioner's motion for summary judgment [Doc. 19] is **DENIED**; and this action is **REMANDED** to the Commissioner for consideration of additional evidence concerning plaintiff's medical condition.

ENTER:

s/ Thomas W. Phillips
United States District Judge